S.B.CIVIL WRIT PETITION NO.4151/2007

Moinuddin
versus
The Rent Control Tribunal, Bikaner & Anr.

Date of Order :: 27th August, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Manoj Bhandari, for the petitioner.
Mr. J.K.Bhaiya, for the respondents.

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The petitioner, who is defending a petition for eviction from rented premises, has preferred this petition for writ assailing validity, propriety and correctness of the order dated 21.5.2007 passed by Rent Control Tribunal, Bikaner rejecting the application preferred by the petitioner to take on record the affidavit sworn-in by one Shri Natthu son of Mohd. Kasim.

The contention of counsel for the petitioner is that the Tribunal erred while holding that there is no provision under the Rajasthan Rent Control Act, 2001 (hereinafter referred to as “the Act of 2001”) to substitute one witness by another and as such the rejection to take on record the affidavit submitted by Shri Natthu in substitution of witness Shri Najmul Hasan is illegal.

I have perused the order impugned and also the other order sheets of the eviction petition of the case available on record. From perusal of the order sheets it reveals that DW-2 Shri Abdul Gaffar was cross examined on 30.4.2007. On 2.5.2007 and 19.5.2007 no defence witness was available and subsequently an application was preferred to substitute Shri Natthu in place of Najmul Hasan as defence witness. It is true that it is always open for the Tribunal adopt its own procedure while dealing with a petition under the Act of 2001. The prime consideration before the court is the adherence of principles of natural justice.

In the instant matter the Tribunal rejected request of the petitioner on two counts, those are that there is no provision for substituting one witness from another and also on the count that there is no rational in making such substitution of witness. I do not find any error in decision of the Tribunal as ultimately it is for the Tribunal to decide its procedure to meet the ends of justice. No straight jacket formula can be provided for adjudicating an application under the Act of 2001. In the instant matter the Tribunal did not find any rational in substituting the witness. As such the order impugned does not warrant any interference of this Court under Articles 226 and 227 of the Constitution of India.

The writ petition is accordingly dismissed.

(GOVIND MATHUR),J.

Kkm/ps.